Attachment I to December 1, 1998 annual report of Nicotine Yield Rating Information submitted by Philip Morris Incorporated to the Massachusetts Department of Public Health

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BY FACSIMILE and FEDERAL EXPRESS

April 8, 1998

Gregory N. Connolly, D.M.D., M.P.H.
Director
Massachusetts Tobacco Control Program
Massachusetts Department of Public Health
250 Washington Street, Fourth Floor
Boston, Massachusetts 02108

Dear Dr. Connolly:

Thank you for meeting with us (Brown & Williamson Tobacco Corporation, Lorillard Tobacco Company, Philip Morris Incorporated, and R.J. Reynolds Tobacco Company ("the manufacturers")) on March 26 to discuss several practical and technical issues relating to the cigarette testing required by 105 CMR 660.102 and 660.500.

This letter responds to your request that we submit in writing our proposals regarding refinements in the sampling and testing procedures set forth in 105 CMR 660.500, and the multiplier described in 105 CMR 660.102(B)(6). As discussed in the enclosed submission, those proposals include, in order of the decisions required to commence testing for purposes of preparing the 1998 reports, the following:

- **Sampling.** The manufacturers seek permission to draw samples for testing from their factories or, alternatively, from wholesalers, subject to oversight by DPH, rather than from retail locations as specified in § 660.500(A).

- **Testing threshold and multiplier.** The manufacturers propose (1) that they continue to be required to test only brand families with a market share of greater than five percent, and (2) that they be permitted to use the multiplier described in the enclosed submission for purposes of the smoke nicotine test for brand families with a national market share of less than five percent.

- **Number of cigarettes to be smoked.** The manufacturers seek permission to smoke 20 ports of three cigarettes each (instead of five) for purposes of the smoke nicotine yield test specified in § 660.500(E).

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- **Surrogate for vent-blocking.** The manufacturers seek permission to measure nicotine delivery for purposes of 105 CMR § 600.500(E)(4) using a 55-milliliter puff volume (rather than a 45-milliliter puff volume), in lieu of vent-blocking.

- **Nicotine content.** The manufacturers request the option to use, in lieu of the method for measuring total nicotine content specified in § 660.500(B), an equivalent method approved by the Massachusetts Department of Public Health ("DPH").

- **Joint sampling and testing.** The manufacturers ask that DPH develop an arrangement with the Texas Health Department, prior to the issuance of final rules in Texas, that will permit joint sampling and testing of brand styles sold in both states.

It is particularly important to receive a response to the proposals regarding sampling, including joint sampling, at the earliest possible time, even in advance of a response regarding the manufacturers' other proposals.

The manufacturers are also undertaking, as you requested, to collect information regarding the weight of the tobacco in the cigarettes tested for 1997. They will be supplying this information shortly, together with a list of wholesalers in Massachusetts and Texas. They also wish to schedule a further discussion with you at your earliest convenience to discuss your stated preference for puff-by-puff measurement of "smoke pH," which the manufacturers do not believe will provide additional, useful information.

If you have concerns about any of these proposals, we ask that you share those concerns with us before making a final decision, so we can explore possible ways of satisfying your concerns. Please call me if you have any questions about any aspect of these proposals or require additional information in order to analyze them.

Sincerely,

David H. Remes

David H. Remes

Enclosures: Submission of the Manufacturers
Appendix A (by Federal Express)
Figures 1-26 (by Federal Express)
Research Cigarettes (by Federal Express)

cc: Dr. Philip Huang, M.D.
William W. Porter, Esq.

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